

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	NO. CIV 93 1134 LH/LFG
)	
v.)	
)	
CIBOLA COUNTY, NEW MEXICO;)	
CIBOLA COUNTY BOARD OF)	
COMMISSIONERS; FREDDIE JOHN SCOTT,)	
ISAAC F. PADILLA, W. FRANK EMERSON,)	
ARTURO CANDELARIA and BENNIE COHOE,)	
Members of the Cibola County Board)	
of Commissioners; and EILEEN)	
MARTINEZ, Cibola County Clerk,)	
)	
Defendants.)	
_____)	

JOINT STIPULATION

The United States, Cibola County ("County"), and remaining defendants, agree through their undersigned counsel to the following Joint Stipulation.

Cibola County has been subject to Section 203 of the Voting Rights Act ("Act"), 42 U.S.C. 1973aa-1a, since 1984 for the Keresan language. In 1992, the County's coverage under Section 203 was extended to the Navajo language. In 2002, the Director of the Bureau of the Census determined that coverage under Section 203 of the Voting Rights Act should be continued for both languages.

Section 203 requires that all information that is provided by Cibola County in English about voter "registration or voting notices, forms, instructions, assistance, or other materials or

information relating to the electoral process, including ballots," must be provided in the Keresan and Navajo languages to the extent that they are needed to allow language minority group members to be informed of and participate effectively in the electoral process and all voting-related activities. 42 U.S.C. 1973aa-1a(c). The provisions of Section 203 apply to all stages of the electoral process, "including, for example the issuance, at any time during the year, of notifications, announcements, or other informational materials concerning the opportunity to register, the deadline for voter registration, the time, places and subject matters of elections, and the absentee voting process." *Attorney General's Procedures for the Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups*, 28 C.F.R. 55.15. Because the Keresan and Navajo languages are historically unwritten, defendants are required to furnish oral instructions, assistance and other information relating to registration and voting in the Keresan and Navajo languages. 42 U.S.C. 1973aa-1a(c); see also 28 C.F.R. 55.12(c).

The United States initiated this action on September 27, 1993, pursuant to Sections 2, 12(d), and 203 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, 42 U.S.C. 1973j(d), 42 U.S.C. 1973aa-1a, and 28 U.S.C. 2201, alleging violations of the Voting Rights Act arising from Cibola County's election practices and procedures as they affected Native American citizens of the

County, including those Native American citizens who rely in whole or in part on the Keresan and/or Navajo language.

Defendants do not contest that prior to 1994, the County failed to make the election process in Cibola County equally available to Native American and non-Native American citizens as required by Section 2 and the Fourteenth and Fifteenth Amendments, nor do defendants contest that in past elections the County had failed to comply fully with the minority language requirements of Section 203. On April 21, 1994, this Court entered a Stipulation and Order ("Order") between the parties instituting the Native American Election Information Program ("Program") in Cibola County to remedy past non-compliance with the above-mentioned provisions of federal law. The Order, by its current terms, remains in effect until March 15, 2004.

Pursuant to the Order, the United States has assigned federal observers to monitor Cibola County elections, and the United States has conducted extensive investigations of the actions of Cibola County in complying with the Order and Section 203 of the Voting Rights Act from 1994 through 2003. During this period, Cibola County has made some progress in making the election process accessible to the Native American population of the County. Reports of federal observers who monitored elections have demonstrated, however, that Cibola County has failed to furnish all instructions, assistance and other information

relating to voting orally in the Keresan and Navajo languages, in violation of the Order. Cibola County neither admits nor denies the information set forth in the federal observer reports. The parties agree, however, that this constitutes good cause under paragraph 5, page 9, of the Order to permit the extension of the Order. The parties further agree that modifications in the Program are necessary to ensure full compliance with the relevant provisions of federal law in the future.

Accordingly, the parties stipulate to the following:

1. Defendants shall make all phases of the election process as accessible to the Native American populations at the Acoma, Laguna and Ramah reservations within Cibola County as they are to the remainder of the County's population. Accordingly, Cibola County shall continue to provide information, publicity, and assistance in the Keresan and Navajo languages in voter registration, voter registration cancellation, absentee voting, early voting, procedures at the polls including translation of the ballot, and training of polling officials and translators as outlined in the attached Program.

2. To assist in the effectiveness of this Stipulation and to ensure the continued enforcement of the voting guarantees of the Act and the Fourteenth and Fifteenth Amendments of the Constitution, Cibola County should remain designated for federal examiners pursuant to Section 3(a) of the Voting Rights Act, 42

U.S.C. 1973(a), which enables the appointment of federal observers. Cibola County recognizes the authority of federal observers to observe all aspects of the voting process conducted in the polls on election day, including assistance to voters in the voting booth provided that the voter does not object to being observed.

3. The parties agree that it shall not be necessary to extend the time that the County is required to seek preclearance of voting changes pursuant to Section 3(c) of the Voting Rights Act, 42 U.S.C. 1973a(c).

4. The parties stipulate to changes in Cibola County's Program to simplify its provisions, decrease its burdens, and increase its efficacy. The revised version of the Program is attached to this Joint Stipulation.

5. Defendants acknowledge that permanent procedures need to be instituted in order to ensure ongoing compliance with Sections 2 and 203 of the Voting Rights Act, and the Fourteenth and Fifteenth Amendments to the Constitution. During 2004, defendant county commissioners shall enact into local law the revised Program for use in future elections in Cibola County.

6. This Stipulation shall remain in effect through December 31, 2006.

7. The Court shall retain jurisdiction to enter further relief or such other orders as may be necessary for the

effectuation of the terms of this Joint Stipulation and to ensure compliance with Sections 2 and 203 of the Voting Rights Act, and the Fourteenth and Fifteenth Amendments to the Constitution.

8. The amended Program attached to this Joint Stipulation supercedes the prior Program ordered by this Court.

Agreed and stipulated to on this 15th day of March, 2004.

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UNITED STATES OF AMERICA

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/s/ (filed electronically
03-15-04)

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THE NATIVE AMERICAN ELECTION INFORMATION PROGRAM

I. Native American Voting Rights Coordinators

A. Cibola County shall employ three Native American Voting Rights Coordinators ("Coordinator(s)") who will coordinate the Native American Election Information Program ("Program") in Cibola County. One of the Coordinators shall be bilingual in Navajo and English, and shall serve primarily the area of the Ramah Chapter of the Navajo Nation. Two of the Coordinators shall be bilingual in Keresan and English, and one shall serve primarily the area of the Acoma Pueblo, while the other shall serve primarily the area of the Laguna Pueblo.

B. In the event of a vacancy in a Coordinator position, the County shall invite officials of the appropriate Pueblo and/or Chapter to recommend at least four qualified applicants. The County may also solicit applicants through its normal job selection process and shall select the most qualified candidate, who otherwise satisfies any County employment requirements, from all available applicants.

C. The County shall train the Coordinators in all aspects of the election process. The Coordinators shall attend all election seminars held by the New Mexico Secretary of State and the Cibola County clerk. The Coordinators shall be fully briefed by County officials regarding the Coordinators' role in ensuring the County's compliance with Section 203 of the Voting Rights Act and the provisions of this Program.

D. The Coordinators shall oversee the Program generally and regularly attend meetings of their respective communities. The Coordinator for the Ramah Navajo Chapter shall attend Ramah Chapter and Chapter officials meetings. The Coordinator for the Acoma Pueblo shall attend tribal council and tribal officers meetings. The Coordinator for the Laguna Pueblo shall attend tribal council and village meetings. Each Coordinator shall attend all other such public meetings, gatherings, tribal fairs, and public functions held at their respective communities as his or her schedule shall permit. During these events, each Coordinator shall, as appropriate, (1) announce the date of the next scheduled election, the offices, if any, open for election, and any non-candidate provisions which shall appear on the ballot; (2) announce the availability of voter registration and the deadlines for registration; (3) provide an opportunity to register to vote by making voter registration applications available and offering language assistance in filling out the applications; (4) announce any scheduled training for election translators and invite the public to attend; and (5) conduct at least one voter registration drive prior to each election.

E. The Coordinator for the Ramah Navajo Chapter shall post the election schedule and all other election-related information at the Chapter House; the Coordinators for the Acoma Pueblo and the Laguna Pueblo shall post the election schedule and all other

election-related information at the relevant tribal office building. The Coordinators shall ensure that voter registration applications are available in plain view to interested individuals at each location.

F. Beginning sixty days before any election and continuing through election day, the Coordinators shall ensure that at least three announcements a day are made on the radio station KTDB, in the Navajo language, and radio station KUNM, in the Keresan language. These announcements shall contain information on (1) the date of the next election; (2) the offices and/or propositions on the ballot; (3) opportunities to register to vote and the deadline for registering before the election; (4) the availability of absentee balloting; (5) the availability of trained translators at the polls on election day; (6) the right of each voter to oral assistance in their native language from either the County's translators or a person of the voter's choice provided that person is not the voter's employer, an agent of that employer, or officer or agent of the voter's union (42 U.S.C. 1973aa-6); and 7) the name(s) and telephone number of the Coordinator(s) who can be contacted to receive more detailed information about the election. In addition, the Coordinators shall ensure that at least once a day during this period taped translations of the ballot made by either the New Mexico Office of the Secretary of State or the Coordinator are broadcast on

radio station KTDB, for the Navajo language, and radio station KUNM, for the Keresan language.

G. Before any election, the Coordinator for the Ramah Chapter shall organize and conduct translation training for all election workers who may provide Navajo language assistance at the Ramah Chapter polling place on election day ("translators"). The Coordinators for the Acoma and Laguna Pueblos shall similarly organize and conduct translation training for all election workers who may provide Keresan language assistance at the Acoma or Laguna Pueblo polling places on election day. The training shall include: 1) how to translate the entire ballot into the appropriate language, 2) practicing the translation of the ballot with each translator, and 3) correcting any errors in translation. The translation of the ballot by each translator shall be made according to the taped translations made by the Office of the New Mexico Secretary of State, if such tapes are available. If standardized translations by the Office of the Secretary of the State are not available prior to the training session conducted by the Coordinator, the Coordinator shall record a taped translation of the entire ballot, make the tape available to the translators, and train them in this translation at the training session. If the ballot contains offices or ballot proposition(s) specific to Cibola County for which the Office of the Secretary of State has not provided a Navajo or

Keresan language translation, the Coordinator shall record a taped translation of the offices and/or proposition(s), make the tape available to the translators and train them in this translation at the training session. Training sessions shall be held at convenient locations within the appropriate community, as permitted by tribal officials, and shall be open to the public.

H. The Coordinator shall be available as needed at the Ramah Chapter House, in the case of the Navajo Coordinator, and the appropriate tribal offices in the case of the Keresan Coordinators, to assist in voter registration or to answer election-related questions when not engaged in the other activities required under this Program.

I. The County shall establish a travel, supply, and telephone budget for the Coordinator sufficient to cover expenses incurred in carrying out the Coordinator's duties in fulfilling the objectives of this Program.

II. Intergovernmental Coordination

In administering the Program, Cibola County and its Coordinators shall:

A. Request and accept all training, materials, and services available from the State of New Mexico in furtherance of the implementation of this program. The Coordinators shall attend all election-related seminars or training sessions conducted by the New Mexico Office of the Secretary of State,

including the Coordinator and/or County Clerk meetings sponsored by the New Mexico Native American Election Information Program.

B. Encourage contact and collaboration with other counties engaged in similar language assistance programs.

C. Invite assistance of tribal officials and the Navajo Elections Administration and the All Indian Pueblo Council as needed to administer effectively the Program.

D. The parties recognize the separate powers and authority of the tribal governments, and nothing in this amended agreement limits or infringes tribal powers or authority. Accordingly, where this Agreement requires Cibola County to perform acts in consultation and cooperation with tribal governments, the County is obligated to undertake its obligations using all good faith efforts. The County shall not be required to perform such acts if a tribal government refuses the County's efforts. In the event of any such refusal, the County shall promptly, and prior to the date for performance of the act or event to be performed by the County, notify counsel for the United States of the refusal or noncooperation.

III. Satellite Election Offices

A. Within ten days of the effective date of this Agreement, the County shall contact tribal officials at the Acoma and Laguna Pueblos and the Ramah Chapter to discuss the possibility of

establishing Satellite Election Offices convenient to the populations of the respective communities.

B. Each Satellite Election Office shall serve as the principal place for office hours for the voting rights coordinators, as a distribution point for the dissemination of election-related information, and as a site for the performance of functions related to the election process that can be performed at the County courthouse, including, but not limited to, registering to vote or updating voter registration information, early voting, and the casting of absentee ballots.

C. Delivery of a voter registration application or performance of any other election-related task at a Satellite Election Office shall be effective in terms of all time deadlines and requirements as if the application had been delivered to, or the task performed at, the County courthouse.

D. A supply of all forms and materials necessary to complete these functions shall be maintained at each Satellite Election Office.

IV. Translations

A. The County shall ensure that taped versions of the Navajo and Keresan language translations of the statewide offices and ballot propositions to appear on the ballot provided by the Office of the New Mexico Secretary of State are delivered to the Coordinator as soon as they are available. Taped versions of the

translations and playback equipment shall be made available to the translators during their translation training and on election day at the Acoma, Laguna and Ramah polling places.

B. The County shall provide each Coordinator with tape recording and playback equipment and a sufficient supply of blank tapes for use in translator training.

C. During elections, translations of the ballot into Navajo and Keresan shall be provided according to the written and/or taped translations made by the Office of the New Mexico Secretary of State, to the extent such translations are available.

V. Election Day Procedures

A. The County shall assign at least one trained translator to the polling places at the Acoma and Laguna Pueblos and the Ramah Chapter for every voting machine.

B. Polling place translators shall orally advise voters of the availability of language assistance.

C. Any voter receiving language assistance from polling place translators shall be provided a full and complete translation of each office, the party (when appropriate) of each candidate, all ballot propositions, and relevant instructions on how to cast a ballot and the use of the voting machine (including, when appropriate, instructions on write-in votes), and shall be read all candidates' names for each office.

VI. Voter List Maintenance

At least 30 days before any registrants from the Ramah Chapter or the Acoma or Laguna Pueblos, are sent notice of the potential cancellation of their registration in accordance with Section 8(d)(2) of the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. 1973gg-6(d)(2), a list of the names of these registrants shall be provided to the appropriate Coordinator. If the Coordinator or tribal officials identify any registrant on the list within the thirty day period who remains eligible to vote in Cibola County, that registrant shall not be sent a notice of potential cancellation and shall be maintained on the list of eligible voters provided that the Coordinator or tribal officials provide the current registration address of the registrant. The Program does not otherwise prohibit the proper authorities from removing from the voter list those ineligible to vote by reason of a change of address, assuming that the requirements of the National Voter Registration Act of 1993, 42 U.S.C. 1973gg, et seq., are met.

VII. Records

For each election, the Coordinator shall record each activity that is performed in fulfillment of this Program on a copy of the Summary of Activities Form appended herein. Within 30 days after each election, the Coordinator shall submit the

completed form to the County Clerk and shall make copies available, upon request, to the United States.

VIII. Adjustments to the Program

Before making any adjustments in this Program, the County shall endeavor to safeguard future compliance with Sections 2 and 203 of the Voting Rights Act, 42 U.S.C. 1973, 1973aa-1a, and the Fourteenth and Fifteenth Amendments to the Constitution, shall consult in good faith with tribal officials from the Acoma and Laguna Pueblos and the Ramah Chapter, and shall provide notice to counsel for the United States of any proposed changes.

Presentations of election information by the Coordinator:

[illegible]

Posting or distribution of election materials by Coordinator:

Date	Place	Materials

Other meetings attended by Coordinator (for example, with County or State officials):

Date	Place	Description of meeting

Date	Place	PW*	O**	Description of training

Other activities of the Coordinator, including voter registration drives:

[illegible]